

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
3 NORTHERN DIVISION

4 SHAWN MACKEY

PLAINTIFF

5 V.

CIVIL ACTION NO. 3:23-CV-233-DPJ-ASH

6 JOHN PIGOTT, ET AL.

7 DEFENDANTS

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9
10 ORAL DEPOSITION OF CHERYL THURMOND
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13 Taken at the instance of the Plaintiff on Friday,
14 October 4, 2024, in the Office of the Mississippi
15 Attorney General, 550 High Street,
16 11th Floor, Jackson, Mississippi,
17 beginning at 1:09 p.m.

18 (Appearances noted herein)
19
20

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1 A. I don't -- I don't remember.

2 Q. Have you ever been involved in a discussion
3 concerning changing the job description of the executive
4 director of MCCB?

5 A. Before this last search, yes.

6 Q. And who did you have this discussion with?

7 A. Well, it would have been a discussion at the
8 board meeting, I would assume. I don't -- we did talk
9 about it. The board decided to change it.

10 Q. Why?

11 A. We wanted to open it up to more people.

12 Q. Ma'am, how many people applied for the job when
13 Andrea Mayfield sought it?

14 A. I don't remember.

15 Q. You wanted to -- why did y'all want to open it
16 up to more people?

17 A. I remember that we didn't feel that it had to be
18 someone with a doctorate degree to run the agency.

19 Q. Ma'am, did you have any experience in
20 determining what degrees a person needed to hold to
21 perform that particular job within the agency?

22 A. No.

23 Q. So how did you reach a conclusion that you
24 didn't need a doctorate degree?

25 A. I just agreed that it didn't have to -- that the

1 the reason he didn't apply or --

2 Q. Okay. Did you ever discuss with him why he
3 didn't apply --

4 A. No.

5 Q. -- for the executive director's position?

6 A. No.

7 Q. Okay. And it would be reasonable not to apply
8 if you can't even meet the minimum requirements; correct?

9 A. Right.

10 Q. So the only person who was considered for the
11 interim director's position was Kell Smith, a white man?

12 MR. DANIELS: Object to the form.

13 A. Kell was considered for the interim.

14 Q. (By Ms. Ross) And he is a white man?

15 A. He is a white man.

16 Q. And can you tell me anyone else who was
17 considered besides him for the interim director's
18 position?

19 A. I believe that we noted or discussed that
20 probably Dr. Mackey and possibly Dr. Rachel DeV Vaughan
21 would be interested in the job -- or interested in
22 applying, yes.

23 But the reason that we chose Kell is because we
24 thought -- we wanted to do things right. We wanted to --
25 we wanted -- I personally -- let me just say it this way,

1 I personally thought Kell was a good choice because I did
2 not think that he would be interested in the job, and
3 that's -- that's the truth.

4 Q. So the board didn't want somebody who would be
5 interested in the job?

6 MR. DANIELS: Object to the form.

7 A. No, I didn't say that. I'm just saying, for me,
8 I felt that it was a good thing to put someone in as the
9 interim that probably -- or I didn't think would seek the
10 job.

11 Q. (By Ms. Ross) But you didn't tie that to his
12 selection; you didn't make it a requirement that the
13 interim director could only serve if he promised or she
14 promised not to seek the executive director's position?

15 A. Right.

16 Q. And you could have done that --

17 MR. DANIELS: Object to the form.

18 Q. (By Ms. Ross) -- right?

19 MR. DANIELS: Object to the form.

20 A. We could have done a lot of things, I guess.

21 Q. (By Ms. Ross) Yeah, but you could have done --
22 specifically, you could have conditioned the selection of
23 the interim director on that person agreeing not to seek
24 the executive director's position; correct?

25 A. We could have. Didn't cross my mind to do that.

1 Q. -- the process because your mother was dying?

2 A. I know that.

3 Q. Yeah.

4 A. But I was not there for these interviews so I
5 cannot tell you. I didn't see that. I don't know. I
6 can't tell you something I don't know.

7 MS. ROSS: Well, go back and read her answer
8 where she talked about what could have been.

9 MR. DANIELS: Object to the form.

10 MS. ROSS: Read that for me, please.

11 (The reporter read the requested portion.)

12 Q. (By Ms. Ross) What facts are you aware of that
13 says that Steven Miller's transcript was lost?

14 A. I don't have any. I'm just saying it could have
15 been. You asked me -- I don't --

16 Q. I didn't ask you what could have been, ma'am.

17 A. Okay, okay.

18 Q. Before Kell Smith was selected as executive
19 director, had he ever supervised any employees at MCCB?

20 A. I -- if he -- I don't know. He could have. He
21 could not have.

22 Q. Was Kell Smith more qualified to be executive
23 director than Shawn Mackey?

24 MR. DANIELS: Object to the form. You can
25 answer.

1 A. Both -- both of them met the educational
2 requirements. Both of them were qualified.

3 Q. (By Ms. Ross) I said, was Kell Smith more
4 qualified than --

5 A. Well, it depends on what "qualified" means and
6 -- and what qualifications you're looking for to fill a
7 particular need at a particular time.

8 Q. Ma'am, was Kell Smith more qualified to be
9 executive director than Shawn Mackey?

10 MR. DANIELS: Object to the form.

11 A. They both were qualified.

12 Q. (By Ms. Ross) Ma'am, who was more qualified for
13 the position of executive director of MCCB?

14 MR. DANIELS: Object to the form.

15 A. If you're just talking about overall
16 qualifications, I felt like Kell was more qualified for
17 what we were looking for.

18 Q. (By Ms. Ross) And what were y'all looking for,
19 a white male?

20 MR. DANIELS: Objection.

21 A. The answer to that is no.

22 Q. (By Ms. Ross) Okay. So he was more qualified
23 based on what?

24 A. He -- he was qualified in his relationships with
25 people, with people at the legislature, things that we

1 THE REPORTER: Let me check the question.

2 (The reporter read the requested portion.)

3 Q. (By Ms. Ross) Okay, so should be interim
4 director. So your answer to my question?

5 A. We selected Kell Smith.

6 Q. Ma'am, "yes" or "no"?

7 A. Read it one time.

8 (The reporter read the requested portion.)

9 A. Yes.

10 Q. So I want to make sure it's clear for the
11 record.

12 A. I do, too.

13 Q. Yeah. So the all-white board selected Kell
14 Smith as the interim executive director without -- at a
15 time when you, as a board member, knew that Mackey had
16 previously applied for the executive director's position;
17 correct?

18 MR. DANIELS: Object to the form. You can
19 answer.

20 A. Yes.

21 Q. (By Ms. Ross) So you knew that Mackey had an
22 interest in leading the agency?

23 A. I assumed he did.

24 Q. Okay. And you didn't consider him because he
25 was African American?

1 MR. DANIELS: Object to the form.

2 A. I would never do that.

3 Q. (By Ms. Ross) Okay. But you did. That's what
4 happened, isn't it, ma'am?

5 A. No.

6 MR. DANIELS: Object to the form.

7 Q. (By Ms. Ross) You never considered Mackey for
8 the position of interim director; right?

9 MR. DANIELS: Object to the form.

10 A. I think we considered several. It was discussed
11 when -- we wanted someone that we didn't think would want
12 the position or be interested in the position. It had
13 nothing to do with Dr. Mackey, how I felt about him, his
14 color, it didn't.

15 Q. (By Ms. Ross) Okay. How --

16 A. It just didn't.

17 Q. -- how do you feel about him?

18 A. I have always liked Dr. Mackey.

19 Q. Okay. All of that that you just said is -- none
20 of that is in these minutes where the board speaks; right?

21 A. Correct.

22 Q. Okay. And you, as a member, have a right to
23 have whatever you want entered into the minutes entered;
24 right?

25 A. Yes.